

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**IN RE: REALPAGE, INC., RENTAL
SOFTWARE ANTITRUST LITIGATION
(NO. II)**

**Case No. 3:23-MD-3071
MDL No. 3071**

**This Document Relates to:
ALL CASES**

Chief Judge Waverly D. Crenshaw, Jr.

**CERTAIN DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO PLEAD
AGENCY LIABILITY**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants Avenue5 Residential, LLC ("Avenue5"), Bozzuto Management Company ("BMC"),¹ FPI Management, Inc. ("FPI"), Pinnacle Property Management Services, LLC ("Pinnacle"), and ZRS Management, LLC ("ZRS") (collectively, "the Property Management Defendants") move for dismissal of the Multifamily Housing First Amended Consolidated Class Action Complaint (ECF No. 314) for failure to state a claim. For the reasons articulated in Certain Defendants' Memorandum of Law in Support of Motion to Dismiss for Failure to Plead Agency Liability and the accompanying Declaration of James G. Kress, which has been filed contemporaneously herewith, the Court should grant the

¹ BMC was not specifically identified among the defendants making this motion in the prior notice to the Court, but rather was among the "similarly-situated Defendants" referenced in the notice that were considering joining the motion. *See* Notice of Number and Nature of Defendants' Anticipated Motions and Motion for Excess Pages at 5 (June 21, 2023) ECF No. 297. The above-named Defendants make this motion without intending any impact as to the ability of other Defendants to raise similar agency arguments in the future.

Property Management Defendants' Motion and dismiss Plaintiffs' claims in their entirety as to the Property Management Defendants.

Pursuant to LR 7.01, the undersigned counsel certify that they have conferred with Plaintiffs' Interim Co-Lead Counsel who indicated that Plaintiffs will stand on their allegations and will oppose the relief sought by this motion.

DATED: July 7, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record registered on the CM/ECF system.

DATED this 7th day of July, 2023.

/s/ Kenneth Reinker

Kenneth Reinker